

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

CARLOS MONTANA WILLIAMON

PLAINTIFF

v.

Civil No. 6:19-cv-06085

DR. JEFFERY STIEVE (Director of Nursing,
Wellpaths Corporation) and NURSE JOHN
DOE (Wellpaths Corporation, ADC Ouachita
River Unit)

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed August 7, 2019, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 6.) Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983 seeking compensatory damages against Defendants. Judge Bryant recommends that Plaintiff's claims be dismissed without prejudice, because Plaintiff has failed to identify any custom or policy of Wellpaths Corporation which, implemented by its employees, violated his Constitutional rights. In addition, Plaintiff has not alleged a sufficiently serious medical need to support a finding of an Eighth Amendment violation against Nurse John Doe, and Plaintiff cannot state a claim against Defendant Stieve for deprivation of a Constitutional right based on a theory of *respondeat superior* liability.

No party has filed objections to the Report and Recommendation, and the time to object has passed. See 28 U.S.C. § 636(b)(1). Upon review, the Court adopts the Report and Recommendation *in toto*.

Accordingly, Plaintiff's Complaint should be and hereby is DISMISSED WITHOUT PREJUDICE. As dismissal of this action constitutes a "strike" under 18 U.S.C. § 1915(g), the Clerk is directed to place a § 1915(g) strike flag on the case.

IT IS SO ORDERED, this 10th day of September 2019.

/s/ Robert T. Dawson

ROBERT T. DAWSON
SENIOR U.S. DISTRICT JUDGE